



Stormwater Management Advisory Commission

Meeting Minutes

March 7, 2019

3:00 pm

Conference Room 305
Raleigh Municipal Building

Commission Members Present: Ken Carper, Tappan Vickery, David Markwood, Claudia Graham, Matthew Starr, Mark Senior, Jonathan Page, David Webb, and Evan Kane

Staff Members Present: Wayne Miles, Suzette Mitchell, Scott Smith, Scott Bryant, Ben Brown, Lauren Witherspoon, Carmela Teichman, Heather Dutra, Kevin Boyer, Justin Harcum, Amy Farinelli, Wenju Zhang, Ana Jaramillo, Veronica Barrett, Craig Deal, and Melanie Nguyen

Commission Members Absent: Francine Durso (*term expired - no replacement appointed yet*)

Guests: Brenna Harrell, Stephanie Hauser, Ryan Smith, Jay Jayakrishnan, Glenn Zablo, and Bill Neethan

Meeting called to order: 3:00 pm by Matthew Starr (*chair*)

1. **Welcome, Introductions, Excused and Unexcused Absence**

- **Mr. Markwood** made a motion to excuse **Ms. Durso** from today's meeting and **Mr. Senior** seconded. The motion was passed unanimously.

2. **February 7, 2019 Minutes for Approval**

- **Mr. Webb** made a motion to approve and **Mr. Senior** seconded. The motion was passed unanimously.

3. **Stormwater Staff Report**

- *No Staffing Updates*

Hot Topics

- **Revised Draft Commission Membership Diversity Recommendations – Revisions** *were made from last month's meeting and any additional comments/feedback will still be accepted. Final revisions will be presented at the next meeting.*
- **Update on Flood Prone Area Stakeholder's Group** – *Ben Brown informed the Commission that emails were sent out today to the stakeholders. He's proposing a meeting at the end of March or beginning of April.*
- **Update on GI/LID Plan Implementation** – *Kevin Boyer indicated the work plan and other documents that have been implemented are located on the Green Stormwater Infrastructure webpage. The last document prepared for Raleigh City Council was in 2016 and posted. After*



today's meeting, he will be emailing the Commission the links to the documents in advance of April's meeting.

- **Environmental Awards** – *Carmela Teichman announced that Raleigh City Council approved the Environmental Awards winners for the ceremony that will be held on April 4 at City Market Hall.*
- *Wayne Miles expressed a thank you to Carmela, Amy Farinelli and Brenna Harrell for participating in a rain garden 101 training session given to citizens at the Walnut Creek Wetland Center.*

4. Backyard Stream Program Update

Dale Hyatt presented the program's objective and needs, criteria for qualifying projects (*drainage assistance & backyard stream*), priorities, funding for the program, ownership maintenance, easement and the next steps for the program.

Mr. Starr asked why the flood hazard reduction wasn't included. **Dale Hyatt** said generally the flood hazard reduction scoring is based on flooding that occurs in the street or structural flooding. He stated there's criteria that staff could possibly incorporate that is yard flooding under certain events; however, the main objective of the program is to stabilize the bank and reduce the erosion that is occurring.

Mr. Senior thinks that it's a great program but feels it will be challenging since there's a limited amount of funds and the majority is being used on petition projects. He wants to know how the program will be funded, how the two will differentiate, and how to split the prioritization. **Dale Hyatt** said the initial thoughts are to have two separate programs, funding, and prioritization. The criteria that would be separate is the 30-foot zone. If you have the 30 feet you could donate/dedicate to a conservation easement, you would then qualify for the backyard stream program, if not, they will have to wait under the existing drainage assistance program.

Mr. Starr asked about the timeline for the program. **Dale Hyatt** said he would need to develop the scope and needs of the program along with the funding aspects. He's looking at probably the summer of next year. **Mr. Starr** asked if there is a rate increase for this or next year will this project be a part of it. **Dale Hyatt** answered yes. **Wayne Miles** added he will speak more on this in his budget presentation, but there will not be a rate increase this year. He's requesting one for next year and believes a portion of the rate increase will be for this program. He thinks the work being done now will give us a good assessment of the needs and make a good case for the rate increase. **Mr. Starr** understands that flooding isn't a primary aspect of this program, but he believes it's a great indirect benefit in terms of getting Raleigh City Council to approve a rate increase. The more you talk about reduction and what it will add on the human aspect, it could probably carry a lot of weight.

Mr. Kane asked what type of repair/maintenance will be made under this program. **Dale Hyatt** stated staff will address repairs by flattening the bends, armoring the toe with rock, if space is allotted providing a more gradual slope, replanting and re-stabilizing the slope and the associated riparian buffer if one was not there.



Mr. Markwood suggested that we need to start looking at Phase II of the masterplan.

5. Stormwater Enforcement Policies and Procedures Proposed Changes

Lauren Witherspoon noted her presentation is a follow-up from the September 2018 meeting. Raleigh City Council requested a report on options to address repeat violations of City Code through increased civil penalties or enhanced communications, specifically failed silt fences.

Mr. Kane asked is the violation limited to one site or could the same site have two violations. **Lauren Witherspoon** stated that violations are by site.

Mr. Markwood asked if there's a fee penalty for a Notice of Violation (NOV). **Lauren Witherspoon** said currently we don't go straight to a fee penalty.

Mr. Starr asked if there's a charge for a reinspection fee. **Lauren Witherspoon** said not for those types of inspections.

Ms. Graham ask if the NOV amount is negotiable. **Lauren Witherspoon** said not at this time.

Mr. Senior asked if we are bound by 10 days because of state statute or can we issue a fee with the NOV like we do with an illicit discharge. **Ira Botvinick** (*City Attorney*) explained they must have a reasonable time to comply but after a certain number of times you can go directly to the penalty. He noted you have the legal authority and they violated the law and now they owe you. If they don't do the work they owe you more, but they will be fined because they are in violation, so legally speaking yes, he stated that's what Asheville does. If they violate the same violation, then you are just fined. We have chosen a lesser step but if you make that change we have to apply it across the board. We couldn't say for smaller sites you are punished more severely than a larger development so larger developers would be punished too if they have multiple violations.

Mr. Kane asked if the Not-In-Compliance (NIC) and NOV is set by statute. **Lauren Witherspoon** stated the NIC is procedure. **Mr. Kane** said if something is not in compliance with the rule wouldn't that be a violation of the rule. **Lauren Witherspoon** said it's a violation. **Mr. Kane** asked if we need a hierarchy between the two (NIC/NOV) because an NOV is just a notice; it's not a penalty. **Ben Brown** cautions that, the reason we instituted a NIC report in 2007 was because improvements were not being done. He stated staff didn't want to go directly to an NOV on everything they saw on site as that was a problem because we have to go through a legal service on every NOV per statute. The NIC is a way of saying fix these, or you will be getting a legal service. Currently staff is doing the NOV service and paperwork. Every time we do a NIC report and if it moves to an NOV for all those sites we would need at least two more staff to issue an NOV legally. He said they might be able to take away the seven-day compliance period completely but not the NIC. He indicated throwing out that report would be rough.

Mr. Carper questioned if repeat violator problems is just lack of knowledge/education. **Lauren Witherspoon** said she has something that may help that. She referenced the highlighted proposed text change of the UDO for repeat violators (*agenda packet*). She stated the proposed says if you have received an NOV within the past two years, you must come in for a permit regardless of the area of land you disturb.



Mr. Senior suggest we fine them up front, if it's legal.

Mr. Starr asked if an NOV be issued in conjunction with a second NIC. **Lauren Witherspoon** explained that prior to issuing an NOV we issue a NIC stating they will be receiving an NOV. There is a NIC report out there at the same time there is an NOV.

Mr. Starr asked if the City has considered implementing a reinspection fee. **Lauren Witherspoon** said there is a reinspection fee, but not on this type of inspection. She explained that when a permit is created there's an initial/final inspection with an associated fee. The routine inspection we conduct throughout the life of the project does not have a fee associated with it.

Motion:

Mr. Markwood made a motion to approve the recommended proposed change outlined in the agenda packet and the presentation and both **Mr. Senior** and **Mr. Carper** seconded. The motion passed unanimously.

6. Raleigh Rainwater Rewards Projects

Justin Harcum (*Project Engineer*) provided the quarterly review of the program and informed the Commission there's two projects up for review.

504 Barksdale Drive - *Install a 750-gallon cistern on the property. The petitioners have already started work and once the cistern is installed it would treat runoff from a total of 800 square feet of impervious roof surface. This project is in the Pigeon House Branch watershed and is eligible for a 90 percent reimbursement. The total project cost is \$4,505 with the petitioner's 10 percent share being \$450 and the City Stormwater share up to \$4,055.*

Motion:

Mr. Senior made a motion to approve the project and **Mr. Carper** seconded. The motion was approved unanimously.

5508 Neuse View Drive - *Install a 2,000-gallon underground cistern on the property. The cistern would treat runoff from a total of 1,854 square feet of impervious roof surface. This project is in the Neuse River watershed and is eligible for a 75 percent reimbursement. The total project cost is \$12,900, with the petitioner's 25 percent share being \$3,225 and the City Stormwater share up to \$9,675.*

Motion:

Mr. Kane made a motion to approve the project and **Mr. Carper** seconded. The motion was passed unanimously.

7. Proposed FY20 Stormwater Budget

Wayne Miles updated the Commission on the division's proposed FY20 budget that will be presented at the Raleigh City Council budget session on March 18 at 4 pm. The slide presentation contained topics on supporting our core values, the challenges we are facing, the proposed FY20 budget, and the division's vision.



Ms. Vickery encourages staff to be bolder with their funding request, especially given the amount of rain these past few years and how it's been damaging homes. She feels the voters are paying attention. You could use as leverage aging infrastructure issues that's destroying private properties. While she understands you can't increase the rate this year she would try for \$6.00 in FY21. She said staff needs to be transparent and show the cameras on the website, so people can see how bad it really is.

Mr. Carper asked how much a fifty-cent increase would add to the budget. **Wenju Zhang** replied that it would be a little over one million dollars.

Mr. Senior said the presentation slide showed the total of \$276 million of CIP identified past projects; however, he didn't see anything that shows how it's being addressed. **Wayne Miles** said our annual CIP is about nine million dollars, and the \$276 million is for about 30 years and that's only what we know. The \$276 million doesn't count what we don't know about the asset management and the stream bank erosion, so that's only a piece of it. **Mr. Webb** said, with asset management, we don't know how many projects we will have and what will be needed in the next 30 years or even the next few years. As a taxpayer he has no problem paying because he understands it; however, a lot of people don't, and he believes it will be a struggle with Raleigh City Council. He said staff should be bolder in asking for funding.

Mr. Kane mentioned that you will likely get a question on how you are addressing climate change. You could point out that you are increasing monitoring of our waterways and you have a contract with USGS in gathering data for new precipitation.

8. **Public Comment**

No public comment

9. **Other Business (Election of Chair & Vice- Chair)**

- **Mr. Starr** made a motion for **Mr. Starr** and **Mr. Carper** to remain as chair and vice-chair and **Mr. Senior** seconded the motion. The motion was approved unanimously.

Adjournment:

Mr. Senior made a motion to adjourn and **Mr. Carper** seconded. The motion was passed unanimously, and the meeting adjourned at 4:45 pm.

Suzette Mitchell